

THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.01.2017
PRONOUNCED ON : 10.01.2017

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

S. A.No.510 of 2011
and
M.P.No.1 of 2011

N.Rangarajan ...Appellant/Appellant/Plaintiff

Vs.

1. The Executive Officer,
Arulmigu Lakshmi Narasimha Swami
Thirukoil, Sholinghur.
2. Srinivasan
3. Kamalammal
4. Seshakonda
5. Balaji
6. Aravamudhan
- 7.Kannammal

...Respondents/Respondents/
Defendants

Second Appeal is filed under Section 100 of Civil Procedure Code, against the judgment and decree dated 25.06.2010 made in A.S.No.8 of 2005 on the file of the Additional District and Session Judge, FTC-II, Ranipet, confirming the Judgment and Decree dated 28.09.2001 made in O.S.No.254 of 1992 on the file of the District Munsif Court, Sholinghur.

For Appellant : Mr.R.Sankaranarayanan

For Respondents : Mr.A.K.Sriram
No.1 for M/s.A.S.Kailsam Associates

For Respondents : Mr.T.T.Ravichandran
Nos.2 to 7

JUDGMENT

Challenge in this second appeal is made by the plaintiff against the judgment and decree dated 25.06.2010 made in A.S.No.8 of 2005 on the file of the Additional District and Sessions Judge, FTC II, Ranipet, confirming the judgment and decree dated 28.09.2001 made in O.S.No.254 of 1992 on the file of the District Munsif Court, Sholinghur.

2. Claiming that the plaintiff's family has the immemorial and hereditary right to prepare and sell Prasadam at the Madapalli of Sri Anjaneyaswamy Temple on the Small Hills, Sholingar, the plaintiff has laid the suit.

3. The defendants 2 & 3 are the brothers of the plaintiff. The plaintiff and the defendants 2 & 3 are the sons of one Nana Singarachariar alias Ujalu Aiyengar. Based on the compromise decree dated 28.09.1935 in O.S.No.385 of 1934 on the file of the District Munsif Court, Sholinghur, it appears the plaintiff has claimed the above said right.

4. The first defendant viz., The Executive Officer of Arulmigu Lakshmi Narasimhaswami Thirukkoil, Sholinghapuram, has vehemently contested the suit laid by the plaintiff contending that the compromise decree entered into in O.S.No.385 of 1934 does not confer any such right as claimed by the plaintiff in the suit and on the other hand, at the best, the decree only regulates the preparation and Selling of Prasadam at the Madapalli of the Temple and therefore, it is contended that the first defendant is entitled to conduct public auction with reference to the right to run Prasadam Kadai at the temple and thereby, regulate the preparation and selling of Prasadam and in such circumstances, the plaintiff is not entitled to seek the reliefs sought for in the suit.

5. The Courts below, on an analysis of the terms of the compromise decree entered into in O.S.No.385 of 1934, have found that the decree only regulates the manner of preparation of Prasadam and the sale of the same in the temple complex and the findings arrived at by the Courts below with reference to the same are not shown to be misdirected against the evidence on record or erroneous. Therefore, it could be seen that no exception could be taken to the findings of the Courts below as regards holding that the compromise decree dated 28.09.1935 in O.S.No.385 of 1934 do not confer any immemorial right to the plaintiff's family to prepare and sell Prasadam at the temple Madapalli as claimed by the plaintiff. It is to be noted at this juncture, the above suit has been laid by the father of the plaintiff and the defendants 2 and 3. In such view of the matter, when the decree as above mentioned does not confer any immemorial right to the plaintiff with reference to the preparation and selling of Prasadam at the Madapalli of the temple as claimed by the plaintiff, it could be seen that the very foundation for the plaintiff to lay the suit is misdirected and unacceptable.

6. It is also found that the Courts below have also held that even assuming for the sake of arguments that any such right claimed by the plaintiff is hereditary, the same gets abolished

by virtue of the provisions of Amendment of Act 2/1971 of the Tamil Nadu Hindu Religious and Charitable Amendment Act, 1959. Therefore, the Courts below have rightly found that even as per the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the plaintiff cannot claim any immemorial right in the preparation and selling of prasadam in his capacity as a Suyambugee of the temple. At the best, as rightly found by the Courts below, the right given to the plaintiff's father with reference to the preparation and selling of Prasadam in his capacity as Suyambugee under the compromise decree can only be taken as a concession extended to him for his service as a Suyambugee in the temple. Nothing more than that can be extended to the plaintiff's father or to the plaintiff and the defendants 2 & 3 with reference to the preparation and selling of Prasadam at the Madapalli of the temple, particularly, as if the same is a hereditary and immemorial right conferred on the plaintiff's family. The compromise decree just regulates only the concession conferred on the plaintiff's father on the above said subject and therefore, the contention put forth by the plaintiff's counsel that the first defendant is not entitled to regulate the preparation and selling of Prasadam at the Madapalli of the temple by calling for the public auction of the same as such cannot countenanced. In the light of the above discussions, the findings of the Courts below declining the reliefs sought for by the plaintiff are found to be in accordance with law and also, as per the terms of the compromise decree passed in O.S.No.385 of 34 and do not call for any interference.

In conclusion, no substantial question of law is found to be involved in this second appeal. Accordingly, the second appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sms

To

1. The Additional District and Session Court,
FTC-II, Ranipet.

2. The District Munsif Court, Sholinghur.

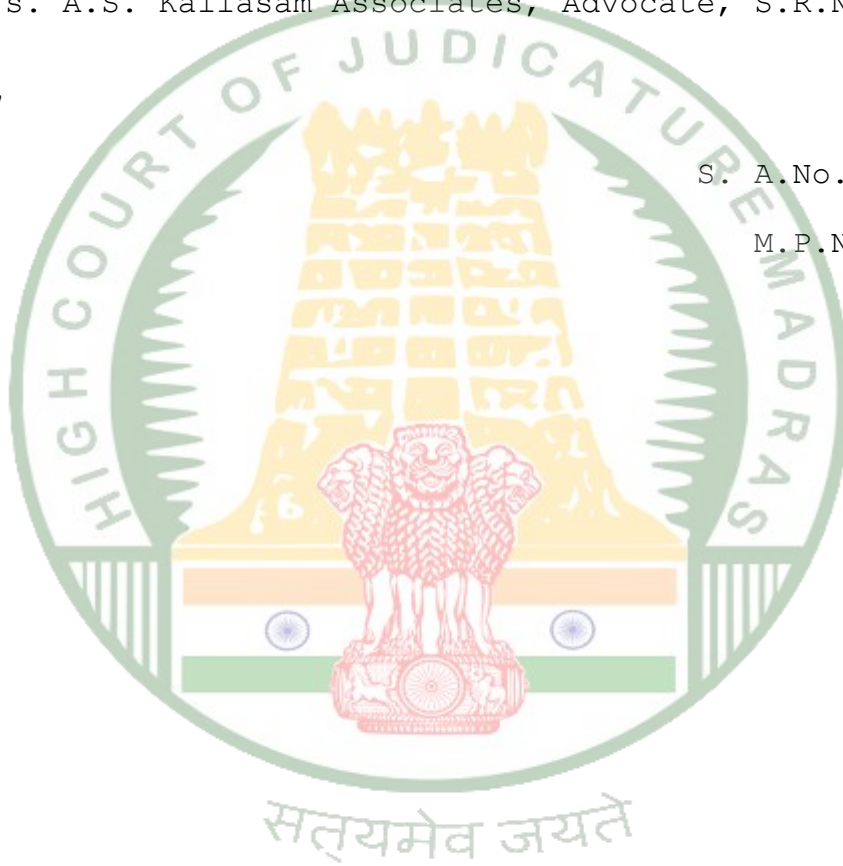
+1cc to Mr.R. Shivakumar, Advocate, S.R.No.3098

+1cc to M/s. A.S. Kailasam Associates, Advocate, S.R.No.2115

GJ(CO)

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